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BOARD OF PUBLIC UTILITIES NEWARK, N J.

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June 27, 2008

### VIA EMAIL AND HAND DELIVERY

Commissioner Frederick F. Butler New Jersey Board of Public Utilities Two Gateway Center Newark, NJ 07102

Re:

In the Matter of the Board Investigation Regarding the Reclassification of

Incumbent Local Exchange Services (ILEC) as Competitive

Docket No. TX07110873

Dear Commissioner Butler:

United Telephone of New Jersey, Inc. d/b/a Embarq ("Embarq"), with the consent and on behalf of itself, the Staff of the New Jersey Board of Public Utilities ("Board Staff") and the New Jersey Division of Rate Counsel ("Rate Counsel") (collectively, the "Stipulating Parties"), hereby submits the attached proposed Stipulation and Agreement. The Stipulating Parties respectfully request that the Board set a date for a public hearing to make a final determination in this matter. The Stipulating Parties recommend that the Board issue an order adopting the proposed Stipulation and Agreement.

Respectfully submitted,

Colleen X. Tolly Colleen A. Foley

Kristi Izzo, Secretary

Service List (via email and first class mail)

RECEIVED MAIL ROOM 08 JUN 27 PM 3: 42 BOARD OF PUBLIC UTILITIES

### STATE OF NEW JERSEY

### BOARD OF PUBLIC UTILITES

In the Matter of the Board Investigation :
Regarding the Reclassification of Incumbent:
Local Exchange Services (ILEC) as :
Competitive :

Docket No. TX07110873

### STIPULATION AND AGREEMENT

Pursuant to N.J.A.C. 14:1-8.1 and 1:1-19.1(a), the Parties (defined below in paragraph one (1)) hereby agree as follows:

### I. BACKGROUND

- (1) The parties to the Stipulation and Agreement ("Stipulation") are United Telephone Company of New Jersey, Inc. d/b/a Embarq ("Embarq"); the Staff of the New Jersey Board of Public Utilities ("Staff"); and the New Jersey Division of Rate Counsel ("Rate Counsel") (collectively, the "Parties").
- (2) Embarq is an Incumbent Local Exchange Carrier ("ILEC") in the State of New Jersey that operates pursuant to rate-of-return regulation.
- Pursuant to N.J.S.A 48:2-21.19(a), the Board cannot "regulate, fix or prescribe" the rates of competitive services. N.J.S.A. 48:2-21.19(a). Embarq may adjust the rates of any service deemed competitive under N.J.S.A. 48:2-21.19(b) without seeking prior Board approval.
- (4) Under an alternative form of regulation ("PAR"), rates may be based on, among other things, "the use of an index, formula, price caps or zone of rate freedom." N.J.S.A. 48:2-21.17.
- (5) On November 28, 2007, in response to a request from Verizon New Jersey Inc. ("Verizon NJ"), the Board commenced this proceeding to investigate the regulatory treatment of retail mass market services provided by ILECs in New Jersey. The Board invited input from any and all interested parties, including but not limited to all registered telecommunications providers in the state, other parties that may have an interest in the matter, and Rate Counsel.

- (6) By order dated December 18, 2007, the Board granted intervenor status to Verizon NJ, Embarq, Sprint Communications Company, L.P., Sprint Spectrum, L.P. and Nextel of New York, Inc. (collectively "Sprint Nextel"), and Rate Counsel. The Board originally granted XO Communications Services, Inc. ("XO") intervenor status, but later granted XO's request to modify its status from intervenor to participant. By order dated December 18, 2007, the Board granted participant status to AT&T Communications of NJ, L.P. ("AT&T"), Cablevision Lightpath - NJ, Inc. ("Lightpath") and The New Jersey Cable Telecommunications Association ("NJCTA").
- (7) On December 14, 2007, Dr. Brian Staihr filed testimony on behalf of Embarq in support of reclassifying Embarq's services as competitive. On December 14, 2007, Verizon NJ also filed testimony in support of reclassifying its retail mass market services as competitive.
- (8) The Embarq mass market retail services at issue in this proceeding are attached hereto as Exhibit A. These services include, but are not limited to, residential basic exchange service; single-line business basic exchange service; residential directory assistance ("DA") service; and residential installation service.
- The U.S. Department of Labor, Bureau of Labor Statistics ("Labor (9) Department"), Consumer Price Indexes ("CPI") program produces monthly data on changes in the prices paid by urban consumers for a representative basket of goods and services. The Labor Department's website (www.bls.gov) contains a "CPI inflation calculator" that uses the average CPI for a given calendar year (representing changes in prices of all goods and services purchased for consumption by urban households), and allows users to determine what the price of a good or service would be today if its price increased by the average CPI for a given period. The CPI is a publicly available index, published by the federal government, and is the type of index contemplated for use in N.J.S.A. 48:2-21.17. The results of applying the CPI inflation calculator to certain Embarq and national average rates for residential basic exchange service; single-line business basic exchange service; and residential installation service are set forth immediately below:
  - (a) Embarq has not raised the price of its residential basic exchange telephone service since March of 1991. See, Decision and Order, BPU Docket No. TR90070726J. Embarq's current rate for residential basic exchange service (including touch tone and the 1986 tax credit) is \$7.95. The Federal Communications Commission reports that the national average monthly rate for basic exchange service (including

touch tone) is \$15.03 (as of October 2006). If the national average price were adjusted for inflation under the Consumer Price Index Inflation Adjuster from 2006 to 2008, the national average price of the service would be \$16.02.

- (b) Embarq has not raised the price of its single-line business exchange service since March of 1991. See, Decision and Order, BPU Docket No. TR90070726J. Embarq's current rate for single-line business exchange service (including touch tone and the 1986 tax credit) is \$16.40. The Federal Communications Commission reports that the national average monthly rate for business exchange service (including touch tone) is \$33.54 (as of October 2006). If the national average price were adjusted for inflation under the Consumer Price Index Inflation Adjuster from 2006 to 2008, the national average price of the service would be \$36.04.
- (c) Embarq has not raised the price of its non-recurring charge for installation of residential service since March of 1991. See, Decision and Order, BPU Docket No. TR90070726J. Embarq's current non-recurring charge for installation of residential service is \$25.00. The Federal Communications Commission reports that the national average monthly non-recurring charge for installation of residential service is \$39.44 (as of October 2006). If this charge were adjusted for inflation under the Consumer Price Index Inflation Adjuster from 2006 to 2008, the charge would be \$42.38.
- (10) Embarq currently offers ten (10) free residential DA calls per month, and charges \$0.20 per chargeable residential DA call after the monthly call allowance has been exceeded. In the majority of states, the average rate is \$1.25 per chargeable residential DA call. In New Jersey, telephonic DA providers price their services from "free" to \$2.49 per call without a free call allowance.
- (11) On January 10, 2008, Rate Counsel and Sprint Nextel filed testimony opposing the reclassification of ILEC-provided retail mass market services.
- (12) On January 29, 2008, Verizon NJ and Embarq filed rebuttal testimony.
- (13) The Board conducted public hearings at different locations across the state on February 11, 13 and 14, 2008. At these hearings, members of the public commented on whether the Board should reclassify the services at

Rebuttal Testimony of Dr. Brian K. Staihr at p. 9 (citations omitted).

- issue, and thus allow ILECs to adjust the rates of their mass market services without seeking prior Board approval.
- (14) The Board conducted evidentiary hearings on February 25 and 26, 2008. At these hearings, witnesses for the parties appeared under oath and were available for cross-examination on the subjects covered in their pre-filed testimony.
- (15)Embard has filed a petition and a proposed Plan for Alternative Regulation ("PAR") with the Board pursuant to N.J.S.A. 48:2-21.18, consistent with the terms of this Stipulation and Agreement. N.J.S.A. 48:2-21.18(a) provides that "[a] local exchange telecommunications company may petition the board to be regulated under an alternative form of regulation." The board shall "review the plan and may approve the plan, or approve with modifications, if it finds, after notice and hearing, that the plan: (1) will ensure the affordability of protected telephone services; (2) will produce just and reasonable rates for telecommunications services; (3) will not unduly or unreasonably prejudice or disadvantage a customer class or providers of competitive services; (4) will reduce regulatory delay and costs; (5) is in the public interest; (6) will enhance economic development in the State while maintaining affordable rates; (7) contains a comprehensive program of service quality standards, with procedures for board monitoring and review; and (8) specifically identifies the benefits to be derived from the alternative form of regulation." A copy of Embarq's proposed PAR pursuant to N.J.S.A. 48:2-21.18(a), as filed with the Board, is attached to this Stipulation and Agreement as Exhibit B.

### II. STIPULATED FINDINGS

- (16) The resolution of this contested matter through the adoption of the stipulated positions set forth herein best serves the interests of judicial economy and preservation of valuable corporate, judicial and administrative resources and is, therefore, in the public interest.
- (17) The terms and conditions covered by this Stipulation and Agreement reflect negotiated terms and conditions that include concessions made by the Parties in the spirit of compromise to bring the matter to an appropriate resolution.
- (18) It is a condition of this Stipulation and Agreement that the Board adopt final Orders approving Embarq's PAR and this Stipulation and Agreement without change or further conditions. Should the Board fail to adopt final Orders approving either Embarq's PAR or this Stipulation and Agreement, then this Stipulation and Agreement and Embarq's PAR shall be deemed null and void and of no force and effect. The Parties agree that this Stipulation and Agreement is a negotiated agreement and represents a reasonable balance of the competing interests involved in this proceeding. The contents of this Stipulation and Agreement shall not in any way be considered, cited or used by any of the Parties as an indication of any Party's position on any related or other issue litigated in any other proceeding or forum, except to enforce the terms of this Stipulation and Agreement.
- (19) This Stipulation and Agreement is voluntary, consistent with the law, and fully dispositive of all issues regarding Embarq's services in controversy in this proceeding.
- (20) This Stipulation and Agreement contains the entire understanding of the Parties, and there are no other terms, conditions, representations or warranties that form a part hereof.
- (21) The Parties could not agree on whether Embarq's NJ mass market retail services at issue in this proceeding meet the statutory reclassification criteria under N.J.S.A. 48:2-21.19.
  - (a) With the exception of Embarq's residential basic exchange service, business basic exchange service, non-recurring charges for installation of residential services, and residential DA service, the Parties agree that the remainder of Embarq's mass market services shall be classified as competitive.
  - (b) Embarq's residential basic exchange service, business basic exchange service, non-recurring charges for installation of residential services, and residential DA service shall remain rate

regulated. The parties agree, however, that Embarq should be permitted to adjust the rates for these services in accordance with the rate caps set forth in Section III below, and that the resulting rate caps will produce rates that are affordable and just and reasonable under the standards set forth in *N.J.S.A.* 48:2-21.17.

### III. SETTLEMENT TERMS AND CONDITIONS

To resolve the dispute without the expense, inconvenience, and uncertainty of further litigation and with specific acknowledgement by all Parties that the terms and conditions of the specific services covered by this Stipulation and Agreement represent terms and conditions negotiated among and between the Parties, with all Parties making concessions in the interests of amicable resolution, the Parties agree to stipulate to the following:

- (22) Upon Board approval of this Stipulation and Agreement, Embarq is authorized upon the effective date of the appropriate tariff to combine rate elements applicable to residential basic local exchange service and single-line business local exchange service as follows:
  - Residential basic local exchange service rate: to \$7.95 per month (\$7.80/month plus the U-Touch rate of \$.75/month minus \$.60 monthly tax credit); and
  - Single-line business local exchange rate: to \$16.40 (\$15.50/month plus the U-Touch rate of \$1.50/month minus \$.60 monthly tax credit).
- (23) Embarq's residential basic exchange service, business basic exchange service, non-recurring charges for installation of residential services, and residential DA service shall remain rate regulated. Upon Board approval of this Stipulation and Agreement, approval of the PAR, and upon the effective date of the appropriate tariffs, Embarq shall be authorized to charge no more for these services than the authorized rate caps set forth below:
  - (a) Residential basic local exchange service: Embarq shall charge no more than \$10.95 per month for the first year after the effective date of the appropriate tariffs, no more than \$13.45 per month for the second year, and no more than \$15.45 per month for the third year.

- (b) Business exchange service: Embarq shall charge no more than \$19.20 per month for the first year after the effective date of the appropriate tariffs, no more than \$22.00 per month for the second year, and no more than \$25.50 per month for the third year.
- (c) Non-Recurring charges (Embarq's Residence Primary Charge for Service Connection and Installation): Embarq shall be permitted no more than a 20 percent, or \$5.00, increase over a period of three (3) years after the effective date of the appropriate tariff (e.g., the 20 percent increase can be effected immediately, or it can be taken in steps at Embarq's discretion, as long as the total increase is no more than 20 percent).
- (d) Residence Directory Assistance: Callers shall receive two (2) free call(s) per month. Once the monthly free call allowance has been exceeded, Embarq shall charge no more than \$1.25 per chargeable DA call for the first year after the effective date of the appropriate tariffs; no more than \$1.50 per chargeable DA call for the second year; and no more than \$1.50 per chargeable DA call for the third year.
- (24) Any increases to Embarq's residential basic local exchange service are not applicable to Embarq's lifeline services which remain regulated and may not be increased absent Board approval. Embarq will continue its outreach efforts to enroll eligible New Jersey residents in the Lifeline program.
- (25) Embarq shall also continue the following social services programs in their current form, and, to the extent applicable at current rates – pending the conclusion of the proceeding identified in paragraph twenty-seven (27) below:
  - · LinkUp (non-recurring charges);
  - Directory Assistance and Directory Assistance Call Completion to residential customers with a visual or physical inability to use a directory or directory source;
  - Non-list Service to those residential customers who provide a Protective Order;
  - Non-Pub Service to those residential customers who provide a Protective Order;
  - · Residential Call Trace, per call;
  - Residential Per Call Blocking;
  - Residential Per Line Blocking;
  - Residential 700/900 Blocking;
  - Residential Toll Block/Operator Screening;
  - Residential Billed Number Screening;

- · IntraLATA MTS Service to hearing impaired residence customers;
- Intra-Municipal Calling
- With the exception of Embarq's services discussed in paragraph twenty-three (23) through twenty-five (25), the remainder of Embarq's mass market retail services, listed in Exhibit A, shall be classified as competitive within the meaning of N.J.S.A. 48:2-21.19. Although competitive and not otherwise rate regulated, Embarq has voluntarily agreed that in order to reach an amicable resolution of this matter and to avoid rate shock and to otherwise ensure reliable service, the services listed immediately below shall be subject to the following rate caps until the conclusion of the proceeding referenced in paragraph 27:
  - a) Caller ID: Embarq shall charge no more than \$8.60 per month for the first year after the effective date of the appropriate tariff; no more than \$10.20 per month for the second year; and no more than \$11.80 per month for the third year.
  - b) Non-Published Residential Telephone Service (Directory Listing): Embarq shall charge no more than \$0.85 per month for the first year after the effective date of the appropriate tariff; no more than \$1.15 per month for the second year; and no more than \$1.45 per month for the third year. Customers who have obtained a court order of protection shall receive non-published listings at no charge.
- (27) The Board shall initiate a proceeding to re-evaluate the competitiveness of the services identified in paragraphs 23(a) through 23(d), twenty-four (24) and twenty-five (25) within ninety (90) days after the third anniversary of the effective date of the appropriate tariffs reflecting the first year increases. The rate caps for the services identified in paragraph 23(a) through 26 shall remain in effect until the conclusion of that proceeding. As part of that proceeding, Rate Counsel may seek reclassification of any retail mass market competitive services listed in Exhibit A.
- (28) Embarq shall abide by all provisions and obligations contained in its PAR, and applicable statutory and regulatory obligations set forth in Title 14 of the New Jersey Administrative Code. This Stipulation and Agreement shall not change Embarq's service quality obligations under its PAR and shall continue to file and maintain tariffs for competitive services unless the Board determines that tariffs are not required for particular services. Either party may seek to modify these obligations in the proceeding identified in paragraph twenty-seven (27).

- (29) Until the proceeding identified in paragraph twenty-seven (27) is commenced, except as set forth in this paragraph and in paragraph thirtyone (31), no party to this Stipulation and Agreement shall petition the Board to modify the rate caps in paragraphs twenty-three (23) and twentysix (26) above. However, if the Board issues an order reducing intrastate access charges that Embarq is permitted to charge, Embarq may request that the Board adjust the rate caps established in this Stipulation and Agreement upon written request to the Board, after hearing, upon notice, wherein Embarg shall have the burden of proof to show that the increase, change, or alteration is just and reasonable given the reduction in access charges. Prior to any such rate adjustment, Embarg shall also demonstrate that the requested rates for residential basic exchange service will be affordable as required by law. Rate Counsel reserves its right to oppose any such petition filed by Embarg. Moreover, either party may seek to modify the provisions of this Stipulation and Agreement, including the rate caps identified in paragraphs twenty-three (23) through twenty-six (26), in the proceeding identified in paragraph twenty-seven (27).
- (30) This Stipulation and Agreement shall supersede the limitations on rate increases applicable to Embarq set forth in Paragraph 1 of Attachment A to the Stipulation of Settlement in BPU Docket No. TM05080739.
- (31) In the event of a catastrophic event, such as an act of God, Embarq may petition the Board for relief arising from such catastrophic event.
- (32) Embarq shall provide Rate Counsel and the Board with the reports listed on Exhibit C hereto.
- (33) This Stipulation and Agreement shall be governed by the substantive law of New Jersey without regard to choice of law rules.
- (34) If any provisions of this Stipulation and Agreement are held to be invalid or unenforceable by a court of competent jurisdiction, the other provisions of this Stipulation and Agreement shall remain in full force and effect.
- (35) The entire Stipulation and Agreement has been reviewed by and is acceptable to the Parties and their counsel as to form, content and meaning. The Stipulation and Agreement was drafted jointly by the Parties; it was not drafted by any one Party and shall not be construed against any Party based on its preparation.
- (36) In the event of default or breach of any term and/or condition of this Stipulation and Agreement, the injured Party shall be entitled to file or

use this Stipulation and Agreement for any purposes whatsoever, including, but not limited to, enforcing the terms and conditions thereof.

- (37) This Stipulation and Agreement may be executed in multiple counterparts, each of which shall be an original and all of which shall constitute one agreement.
- (38) Any notice to be given pursuant to this Stipulation and Agreement shall be in writing and shall be given or made by confirmed facsimile or by certified, registered or overnight mail addressed as follows or to any other address upon thirty (30) days' advance written notice to the other Parties:

To: United Telephone Company of New Jersey, Inc. d/b/a Embarq 240 N. 3<sup>rd</sup> Street, Suite 201
Harrisburg, PA 17101
Attn: Richard A. Hrip
Jeanne W. Stockman

To: Rate Counsel 31 Clinton Street, 11<sup>th</sup> Floor Newark, NJ 07101 Attn: Christopher J. White

To: Board Staff
Two Gateway Center, 8<sup>th</sup> Floor
Newark, New Jersey 07102
Attn: Anthony Centrella

Division of Law 124 Halsey Street, 5<sup>th</sup> Floor Newark, New Jersey 07101 Attn: Caroline Vachier

- (39) This Stipulation and Agreement may not be amended or any part of its provisions waived, except by a writing executed by all of the Parties. This Stipulation and Agreement is the valid, legal and binding obligation of the Parties, enforceable against them in accordance with their terms.
- (40) The Parties hereby agree to be bound to this Stipulation and Agreement, and they acknowledge that they are authorized on behalf of their respective clients to execute this Stipulation and Agreement and to bind their respective clients by their signatures below.

(41) The Parties collectively request the Board approve the Stipulation and Agreement and adopt it as a final decision and order therefore bringing all issues regarding the Embarq services at issue in this proceeding to closure.

In witness whereof, and with the advice of counsel and intending to be legally bound, the Parties have executed this Stipulation and Agreement.

Respectfully submitted,

| Counsel fo | Foley, Esq.<br>r United Telephone Company of<br>y, Inc. d/b/a Embarq |
|------------|--|
| Dated:     | , 2008   |

Stefanie A. Brand Director New Jersey Division of Rate Counsel

Dated: \_\_\_\_\_, 2008

Geoffrey R. Gersten, DAG Jessica Campbell, DAG

Dated: , 2008

FOR:

Attorney General of New Jersey Attorney for the Staff of the Board of Public Utilities 是一島

| Embarq Tariffed Service                                   | Tariff Section. | E-Managerine III MANAGERINE AND   |
|---|-----------------|---|
| General Regulations                                       | 2               | See Tariff NJ BPU - No. 3, Section 2  |
| Service Charges   | 3               | See Tariff NJ BPU - No. 3, Section 3  |
| Service Connection Charges                                | 3.1.1<br>3.1.2  | Charges which apply to the establishment of service for a customer.  Primary Charge (business), Secondary Charge, Record Charge, and Trip Charge.   |
| Restoral of Service Charges                               | 3.2.1           | For the restoral of exchange service after suspended for non-payment.   |
| Returned Check Charge                                     | 3.2.2           | Charge assess to customer for failure to maintain sufficient funds in checking account.   |
| Miscellaneous Service Connection<br>Charges               | 3.2.3           | List of services excluded from non-recurring charges.   |
| Construction Charges and Other Special Charges            | 4               | See Tariff NJ BPU - No. 3, Section 4  |
| Construction Charges – Public Highways                    | 4.1.2           | EQ determines the type of construction of its plant on public highways.   |
| Construction Charges - Private Property                   | 4.1.3           | EQ determines normal method of construction according to conditions.  |
| Construction Charges – Underground<br>Service Connections | 4.1.4           | Underground service is provided by EQ when it is considered more economical than aerial connection.   |
| Service Entrance Facilities                               | 4.2             | EQ is not required to construct, own, operate, or maintain an extension on any property unless legally authorized to do so.   |
| Exchange Services   | 5               | See Tariff NJ BPU - No. 3, Section 5  |
| Intramunicipal Calling Service                            | 5.1.1.B         | Non-optional service arrangement provided in municipalities served by more than one exchange where ILEC toll charges would normally apply between the two exchanges.                      |
|   |                 | Exchange service furnished from central office of an exchange other than that normally serving the area is which customer is located.  Intracompany (nonadjacent)                         |
| Foreign Exchange Service                                  | 5.1.4           | (adjacent)<br>Intercompany  |
|   |                 | (Monthly Supplemental Charge)   |
| Direct Inward Dialing                                     | 5.1.6           | Establish DID Trunk Group Permits calls to customer-provided equipment, requiring outpulsing of digits from the network, to reach a specific line without the assistance of an attendant. |

| Embarq Tariffed Service                                   | Tariff<br>Section | Service Description  |
|---|-------------------|--|
| General Regulations                                       | 2                 | See Tariff NJ BPU - No. 3, Section 2   |
| Service Charges   | 3                 | See Tariff NJ BPU - No. 3, Section 3   |
| Service Connection Charges                                | 3.1.1<br>3.1.2    | Charges which apply to the establishment of service for a customer.  Primary Charge (business), Secondary Charge, Record Charge, and Trip Charge.                              |
| Restoral of Service Charges                               | 3.2.1             | For the restoral of exchange service after suspended for non-payment.  |
| Returned Check Charge                                     | 3.2.2             | Charge assess to customer for failure to maintain sufficient funds in checking account.  |
| Miscellaneous Service Connection Charges                  | 3.2.3             | List of services excluded from non-recurring charges.  |
| Construction Charges and Other<br>Special Charges         | 4                 | See Tariff NJ BPU - No. 3, Section 4   |
| Construction Charges - Public Highways                    | 4.1.2             | EQ determines the type of construction of its plant on public highways.  |
| Construction Charges – Private Property                   | 4.1.3             | EQ determines normal method of construction according to conditions.   |
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| Service Entrance Facilities                               | 4.2               | EQ is not required to construct, own, operate, or maintain an extension on any property unless legally authorized to do so.  |
| Exchange Services   | 5                 | See Tariff NJ BPU - No. 3, Section 5   |
| Intramunicipal Calling Service                            | 5.1.1.B           | Non-optional service arrangement provided in municipalities served by more than one exchange where ILEC toll charges would normally apply between the two exchanges.           |
|   |                   | Exchange service furnished from central office of an exchange other than that normally serving the area in which customer is located.  Intracompany (nonadjacent)              |
| Foreign Exchange Service                                  | 5.1.4             | (adjacent)<br>Intercompany   |
|   |                   | (Monthly Supplemental Charge)  |
| Direct Inward Dialing                                     | 5.1.6             | Establish DID Trunk Group Permits calls to customer-provided equipment, requiring outpulsing of digits from the network, to reach a specific line without the assistance of an |

| Embarq Tariffed Service       | Tariff<br>Section | Service Description,   |
|-------------------------------|-------------------|--|
|                               |                   | Remove or add numbers to DID number block (per number)  An arrangement of lines such that all incoming calls to  |
| Rotary Access Service         | 5.1.7             | the grouping are directed automatically to an idle line in the group. Also referred to as line hunting.  |
| Premium Exchange Services     | 5.4               | See also Tariff NJ BPU – No. 3, Section 13.2 (Obsolete Premium Exchange Services)  |
| Extension Access Line Service | 5.4.1             | Telephone service connected with main service either directly or through some switching device.  |
| Custom Calling Services       | 5.4.3             | Includes Speed Calling, (8)  (30) Three-Way Calling (monthly) or Per use basis Call Forward Features (programmable) (fixed) (busy – fixed) (busy – programmable) (no answer – fixed) (no answer – programmable) (additional paths, per path) (group) (group busy) (group no answer) (group fixed) Enhanced Call Waiting, Call Waiting with Options, Call Waiting ID (comes with caller ID or Enhanced Call Waiting Hot Line, SignalRing® Plus First number Second number Third number Return Call (per line monthly) or Per use basis Repeat Dial (per line monthly) or Per use basis Caller ID (per line) Caller ID with Name, Anonymous Call Rejection (ACR), Call Trace (per successful attempt) Selective Call Acceptance, Selective Call Rejection, Selective Call Ring, Per-Call Blocking, |

| mbarq Tariffed Service  | Tariff<br>Section | Service Description  |
|---|-------------------|--|
|   |                   | Per-Line Blocking,   |
|   |                   | Three-Way Calling with Transfer.   |
|   |                   | Allows all calls dialed to a telephone number  |
|   |                   | equipped for RCF service to be automatically   |
|   | 5.4.4             | forwarded to another dialable telephone number.  |
| Remote Call Forwarding (RCF)                                  |                   | Offered as local or toll.  |
| Remote Call Forwarding (NOT)                                  |                   | If Local – Local Measured Rates apply*   |
|   |                   | Initial period (4 minutes)   |
|   |                   | Each additional minute   |
|   |                   | *50% discount 9:00 PM to 9:00 AM daily   |
|   |                   | Payphone Line Service is one-party exchange service for use by pay telephone providers, location owners, and interexchange carriers. The service is furnished for connection with coin, coinless, or combination pay |
|   |                   | telephone equipment to the Embarq network.   |
|   |                   | Local Measured Rates apply*  |
|   |                   | Initial period (4 minutes)   |
| Public Communication Service                                  | 5.5               | Each additional minute   |
|   | -                 | *50% discount 9:00 PM to 9:00 AM daily   |
|   |                   | Optional call detail (per call)  |
|   |                   | Features   |
|   |                   | Incoming/Outgoing Screening  |
|   |                   | Incoming Blocking Coin Control Additive (Each Line)  |
|   |                   | Answer Supervision (Each Line)   |
|   |                   | Non-Published Telephone Service  |
|   |                   | Non-Listed Telephone Service,  |
|   |                   | Dual-Name Listings,  |
|   |                   | Foreign Exchange Service (home exchange listing)   |
|   |                   | Foreign Listings   |
|   |                   | Alternate Call Numbers   |
|   |                   | Listings Furnished without Extra Charge Additional   |
|   |                   | Listings/Additional Directory Lines Duplicate Listings   |
|   |                   | Reference Listings   |
| Directory Services  | 5.6               | Indented and Caption Listings  |
|   |                   | Temporary Listings   |
|   |                   | WATS Service Listings  |
|   |                   | Business Directory Assistance Service  |
|   |                   | Directory Assistance Call Completion,  |
|   |                   | National Directory Assistance Service,   |
|   |                   | Vanity Listings – Local  |
|   |                   | Foreign Exchange   |
|   |                   | All Other Listings   |
|   |                   | Operator assistance charge for:  |
|   |                   | Time of Day,   |
| Land Opportunities Consisted                                  | 5.7               | Calling Card Customer Dialed,  |
| and Operator Services   |                   | Consider Chaties to Chaties  |
| ocal Operator Services  | 0.7               | Operator Station-to-Station,   |
| ocal Operator Services  | 0.7               | Person-to-Person calls   |
| ocal Operator Services  | 5.7               | Person-to-Person calls Billed Number Screening   |
| Local Operator Services  Blocking - "700/500/900" Information | 5.8               | Person-to-Person calls   |

| Embarq Tariffed Service                                | Tariff<br>Section | Service Description   |
|--|-------------------|---|
| Privacy ID   | 5.9               | Provides Caller ID subscribers with the ability to identify unavailable, unknown, blocked, and private numbers.   |
| Talking Call Waiting                                   | 5.10              | Allows the customer to hear the name associated with<br>the directory listing of the calling number after hearing<br>the call waiting tone while the customer is on the line.   |
| Message Telecommunications<br>Service                  | 6                 | Already competitive service See Tariff NJ BPU - No. 3, Section 6  |
| Wide Area Telecommunication<br>Service                 | 7                 | Already competitive service<br>See Tariff NJ BPU - No. 3, Section 7   |
| Connections of Premises Equipment to Exchange Services | 8                 | CPE unregulated by FCC See Tariff NJ BPU – No. 3, Section 8   |
| Central Office Services                                | 9                 | See Tariff NJ BPU - No. 3, Section 9  |
| Dial Switching Systems                                 | 9.1               |   |
| Advanced Business Connection                           | 9.1.1             | A central office communications system arrangement provided in connection with individual lines from digital central office equipment located on EQ premises.  Access line (1B rate)  Basic ABC additive (varies by number of lines and term commitment)  Rotary Access Service Lines (per line)  Executive Private Line (per line) |
|  |                   | Multiple Appearance Directory Numbers per Customer group  Multi-Exchange Differential (per line) Optional Features  |
|  |                   | Optional Foundation   |
| Emergency Reporting Services                           | 9.2               | 911 and 911E Services   |
| 9 1 1 Enhanced Service (9-1-1 E)                       | 9.2.1             | Includes ALI information, trunks, backup and facilities provided to public safety answering points (PSAPs).  Automatic Location Identification (ALI) (per 1,000 Access Lines  Automatic Location Identification (ALI)   |
|  |                   | (Data Base Partitioning Primary Trunk (each) Alternative Trunk (each)  Operator Trunk (each)  |

| Embarq Tariffed Service                            | Tariff<br>Section | Service Description   |
|--|-------------------|---|
| Wireless E911 Phase 2                              |                   | Instant Network Backup (each)   |
|  |                   | Interexchange Facilities  |
|  |                   | Customer Premise Equipment  |
|  |                   | Enhanced MF Signaling per PSAP Extended ALI Display Format per PSAP   |
|  |                   | ALI Database Upgrade for Wireless Phase 2 per PSAP  |
| Reverse Notification Telephone<br>Database Service | 9.2.3             | Supports the ability of PSAPs to make broadcast notification calls to areas under their jurisdiction in the event of emergencies.  One-time update (CD-RCM)   |
|  |                   | Monthly update (CD-RCM) 12 month term   |
| Telephone Answering Service                        | 9.3               |   |
| Secretarial Answering Service                      | 9.3.1             | A type of telephone service operated by a customer of EQ who in turn provides answering service to other EQ customers.  |
| Secretarial Direct Line Service                    | 9.3.2             | Exchange service terminating directly on customer-<br>provided secretarial switchboard for us of customers<br>who do not have other exchange service.   |
| Miscellaneous Service Offerings                    | 10                | See Tariff NJ BPU - No. 3, Section 10   |
| United TransLink <sup>sm</sup>                     | 10.1              | A digital private line service available within the LATA providing for simultaneous two-way transmission of isochronous digital signals at speeds of 1.544 Mbps.  |
| United DigiLink <sup>sm</sup>                      | 10.2              | A digital transmission service designed to transmit signals end-to-end over digital facilities routed through EQ central offices.   |
| Network Services Packaging                         | 10.7              | Offerings that combine certain Custom Calling Service options into packages at rates that provide a monthly savings over rates that would apply if the services were purchased individually. Includes IN TOUCH with Call Waiting IN TOUCH with Return Call CALL MANAGER, Priority Package, ESSENTIALS, CLASSICS CALLING PACKAGE, ELITE. |
| Frame Relay Service                                | 10.8              | A fast packet network that permits the transmission of data at speeds up to DS3 using permanent virtual circuits (PVCs). Allows customer to allocate circuit bandwidth as needed.   |

| Embarq Tariffed Service                           | Tariff<br>Section | Service Description  |
|---|-------------------|--|
| Lightlink® Service                                | 10.10             | Furnished for private line intraLATA intraexchange and interexchange communications using only digital transmission facilities providing for the simultaneous transmission of isochronous digital signals at DS3 speeds (44.736 Mbps).   |
| Blocking - Toll Service and Operator<br>Screening | 10.11             | Provide customers with the capability to block origination of customer direct-dialed calls with the exception of toll-free calls. Also provides for manual intervention of call attempts (0-) with an explanation to the party attempting to dial a call that only collect and calling cards are permitted from that line. |
| Toll and Casual Dialing Restriction               | 10.12             | Prevents the completion of 1+, 0+, 0-, 00-, 01/011+, 900, 976, 500, 700, DA, etc.  |
| Call Line Identifier                              | 10.13             | Used to attempt to trace and identify, at the request of the subscriber, the source of obscene, harassing, and/or other nuisance type of telephone calls.  30 – Day Period (per line)  12 – Month Period (per line)  Renewal Request for 30 days or 12 months - same number(s) per line                                    |
| Satisfaction Guarantee Program                    | 10.14             | Provided for business customers who subscribe to any business service provided by EQ. Customer may cancel service within 90 days of installation without incurring termination liability when customer is not satisfied with service provided by EQ.   |
| Voice Business Continuity                         | 10.15             | Allows business customer to establish predetermined<br>alternate routing plans for incoming voice traffic.   |
| V - H Measurements                                | 11                | See Tariff NJ BPU - No. 3, Section 11  |
|   |                   | Includes intracompnay and intercompany services, not limited to Private Line Services (for voice, data, alarm, control), Tie Lines, Off-Premises Extensions or PBX Stations, and Foreign Exchange Service. Rewire Charge and additional at same time 1000 Series Channels  |
|   |                   | 2000/3000 Series Channels  |
| Channel Services                                  | 12                | Channel Conditioning Same exchange (Subsequent installed) C-1 C-2 C-4 Inter exchange (Subsequent Installed) C-1 C-2 C-4 D-1 (Installed with channel or subsequent)   |
|   |                   | Signaling Arrangement Type A Type B  |

| Embarq Tariffed Service                       | Tariff<br>Section | Service Description  |
|---|-------------------|--|
|   |                   | Type C   |
|   |                   | E&M<br>Automatic Ringing   |
|   |                   | Same Exchange Service  |
|   |                   | Different Exchange Service   |
|   |                   | Terminate on Key System  |
|   |                   | Same Exchange Service  |
|   |                   | Different Exchange Service   |
|   |                   | See Tariff NJ BPU – No. 3, Section 12  |
|   |                   | Call Screening   |
|   |                   | Packages   |
|   | -                 | Res Block of Time  |
|   |                   | Bus Discount Plan<br>Special Packages (Res)  |
| Obsolete Exchange Service                     | 13                | Special Fackages (Nes)   |
| Obsolete Exchange Service                     | 13                | Special Packages (Bus)   |
|   |                   | Basic Rate Interface (BRI)   |
|   |                   | See Tariff NJ BPU – No. 3, Section 13  |
| Obsolete Service Offerings                    | 14                | CPE unregulated by FCC See Tariff NJ BPU – No. 3, Section 14   |
| Trial Offerings                               | 15                | See Tariff NJ BPU – No. 3, Section 15  |
|   |                   | A local exchange telecommunications service that provides integrated voice and data communications capability. Include ISDN-BRI and ISDN PRI. ISDN-BRI Rates |
| Integrated Services Digital<br>Network (ISDN) | 16                | ISDN-PRI Rates   |
|   |                   | See Tariff NJ BPU – No. 3, Section 16 and Section 13.6 (Obsolete Basic Rate Interface)   |
| Special Packaged Offerings                    | 17                | See Tariff NJ BPU – No. 3, Section 17 and Section 13.5 (Obsolete Special Packaged Offerings)   |
|   |                   | A series of bundles permitting Residential customers to receive line, features, and services for a flat  |
|   |                   | monthly rate. Includes Personal II Solution,   |
| Solutions - Residence                         | 17.1              | Home II Solution,  |
|   |                   | Safe and Sound II Solution,  |
|   |                   | Core Solution Plus,  |

| Embarq Tariffed Service   | Tariff<br>Section | Service Description   |
|---------------------------|-------------------|---|
|                           |                   | Simple Solution,<br>Standard Home Phone Service II, Progressive Plan<br>Follow Me Plan.   |
| Solutions - Business      | 17.2              | A series of bundles permitting Business customers to receive line, features, and services for a flat monthly rate. Includes Sure Solution II, Priority Solutions, Economy Solution, Rotary Classic Solution, Economy Bundle II A, Complete Business Bundle, Additional Complete Business Bundles and Term Discount Plans on Business Solutions bundles. |
| Custom Access Solutions   | 17.3              | An intraexchange digital service designed to provide for the integration of multiple voice channels. Without ISDN-PRI functions (per voice channel) With ISDN-PRI functions (per voice channel)   |
| Centrex II                | 17.4              | A central office communications system provided on individual access lines from EQ central office equipment. The service provides local exchange access, interexchange access, intrasystem communication, and Centrex II feature packages.  |
| Connection Central Bundle | 17.5              | An optional Business service enrollment plan that permits a customer to receive features and services for a flat monthly rate for each bundle provided.   |
| PRI Bundle - Business     | 17.6              | An optional business service enrollment plan that permits a customer to receive ISDN PRI Bundle features and services for a flat monthly rate for each bundle provided.   |
| Multiline Bundle          | 17.7              | AN optional business service enrollment plan that permits customers to receive local exchange service and additional features and services for a flat monthly rate for each Multiline Bundle provided.  Two year commitment period per bundle  Three year commitment period per bundle  |
| ATM Service               | 18                | A connection-oriented fast packet local, intraLATA, and intrastate InterLATA network service that permits the transmission of high-speed data, voice, and video traffic using cell switching technology.  See Tariff NJ BPU – No. 3, Section 18   |

4.8

### EXHIBIT A ALTERNATIVE REGULATION PLAN

### United Telephone Company of New Jersey, Inc. d/b/a Embarq

### INTRODUCTION

This Plan for Alternative Regulation ("PAR") replaces rate base/rate of return regulation for United Telephone Company of New Jersey, Inc. d/b/a Embarq ("Embarq"). This PAR is submitted by Embarq pursuant to the New Jersey Telecommunications Act of 1992, N.J.S.A. 48:2-21.18(a). Unless otherwise addressed herein, this PAR governs certain services that remain rate regulated under the Telecommunications Act of 1992, N.J.S.A. 48:2-21.16 et seq.

### I. TERM AND EFFECT

This PAR will commence upon Board approval. The terms of the PAR will remain in effect until approval of a modified Plan or a new Plan by the Board. During the term of this PAR, any changes in rates that remain rate regulated shall require Board approval.

Embarq will be submitting for Board approval a proposed Stipulation and Agreement with regard to <a href="I/M/O">I/M/O</a> the Board Investigation Regarding The Reclassification of Incumbent Local <a href="Exchange Services">Exchange Services</a> (ILEC) as Competitive, Docket. No. TX07110873 ("Stipulation and Agreement"), which establishes terms applicable until further Order of the Board. This PAR will be interpreted and applied in a manner consistent with the terms of the proposed Stipulation and Agreement. In the event the Board does not approve the proposed Stipulation and Agreement, then this PAR will not go into effect.

## II. COMMITMENTS TO INFRASTRUCTURE DEPLOYMENT, DISCOUNTED PROGRAMS, AND LIFELINE SERVICE

A. Infrastructure Deployment – Embarq will continue its broadband deployment to its customers based upon a Bona Fide Retail Request ("BFRR") Program focused on carrier serving areas ("CSAs"), as set forth in paragraph 4 of Attachment A (dated January 13, 2006) to

For purposes of this PAR, "rate regulated" services (described as "noncompetitive services" in Title 48) shall mean Embarq services other than those (1) designated by the Board as competitive, including services designated as competitive at In the Matter of the Board Investigation Regarding the Reclassification of Incumbent Local Exchange Services (ILEC) as Competitive, Docket No. TX07110873; or (2) not regulated by the Board. Jurisdiction over wholesale services is governed by the Federal Act subject to FCC and state commission oversight, and these services are not subject to, or governed by this PAR.

the Stipulation of Settlement approved by the Board at Docket No. TM05080739.<sup>2</sup> Specifically, when bona fide requests totaling at least 50 retail access lines are received by Embarq for broadband service from a single CSA, Embarq will provide DSL service, or a comparable service, in that CSA within twelve months of receipt of such requests totaling at least 50 retail lines or more, Embarq will provide a bill message to customers twice annually, in the July and January bills, advising them of the availability of its BFRR program. Embarq will continue to advise the BPU and Rate Counsel of the manner in which it administers the program.

- B. Schools and Libraries Discount Program Embarq will continue its discount program for schools and libraries for services (including ATM; Frame Relay, and PRI data services) provided by Embarq, as set forth in paragraph 3 of Attachment A (dated January 13, 2006) to the Stipulation of Settlement approved by the Board at Docket No. TM05080739. Embarq, at its discretion, may add services subject to the discount program based upon customer and business needs. This discount program is included in Embarq New Jersey's tariffs. These discounts are in addition to any discounts from qualified E-rate program that any eligible participant may avail themselves of.
- C. Lifeline Service Embarq will continue its Lifeline program as set forth in paragraph 2 of Attachment A (dated January 13, 2006) to the Stipulation of Settlement approved by the Board at Docket No. TM05080739, which includes the following components: (a) an effective end user rate of \$0.95 per month; (b) educational promotion of Embarq's Lifeline program twice yearly via bill message included in all Embarq customers' bills; and (c) concurrent with the bill message in (b) above, notification to county social services providers in each county served by Embarq of program availability. Lifeline participants may choose to purchase and pay for optional vertical features at applicable tariff rates. Program eligible customers shall not be disqualified due to past due amounts; however, they can be limited to basic exchange rate service.

In the Matter of United Telephone Company of New Jersey, Inc. d/b/a Sprint and LTD Holding Company for Approval Pursuant to N.J.S.A. 48:2-51.1 and N.J.S.A. 48:3-10 of a Change of Ownership and Control, Docket No. TM05080739, Order dated March 9, 2006.

Embarq's Lifeline Program shall include automatic enrollment of its existing and new Embarq customers who participate in and provide a valid telephone number associated with their Embarq basic local exchange telephone service to any of the social program agencies identified in Embarq's New Jersey tariff (Tariff N.J. B.P.U. – No. 3, Fifth Revised Page 56). Embarq shall implement an automatic enrollment program within three (3) months: (a) of Board entry of a final order relative to Embarq at BPU Docket No. TX07110873; and (b) receipt of accurate and current information from the agencies/programs identified in Embarq's New Jersey tariff (Tariff N.J. B.P.U. – No. 3, Fifth Revised Page 56). Embarq's Lifeline Program will also provide for self-certification of low income senior customers (ages 65 and over) at or below 150% of the Poverty Level (as published in the Federal Register) who provide a valid telephone number associated with their Embarq basic local exchange telephone service. Embarq shall define, administer and implement the automatic enrollment program and the low income senior program, with the cooperation of Board Staff and Rate Counsel.

# III. STREAMLINED PROCESS FOR NEW SERVICES, CHANGE PRICES OF EXISTING SERVICES, REVENUE NEUTRAL FILINGS, AND WITHDRAWAL OF SERVICES

- A. Introduce New Services: A streamlined process to introduce new services will enable customers to benefit immediately from the capabilities of an advanced telecommunications infrastructure and competition. Board approval is required to classify any new service offering as competitive.
  - Unless the Board takes affirmative action through a deficiency letter transmitted from the Secretary of the Board, all new service offerings shall become effective on thirty (30) days' notice, after filing with the Board, without the requirement for prior Board approval.
  - The filing shall include a brief description of the service and a copy of the relevant tariff pages with all terms and conditions.
  - 3. For new services proposed as competitive offerings, the filing to classify a service as a competitive service offering will include sufficient information to show compliance with *N.J.S.A.* 48:2-21.19(b).

- Optional services or packages may be withdrawn on thirty (30) days' notice, provided that they were available for a minimum of sixty (60) days.
- 5. New services may be introduced by Embarq and optional services or packages may be withdrawn by Embarq on less than thirty (30) days' notice if the Board transmits a Secretarial Letter acknowledging the introduction or withdrawal of such services. As a prerequisite to the issuance of such a letter, Embarq will provide information to the Board and Rate Counsel at the time of filing showing either:
  - a) there will be no material harm to customers, or
  - b) there are clear benefits to customers, or
  - c) a comparable service is already being provided by competitors.

This provision cannot be used to deaverage rates and does not apply to existing protected services, to the extent that services must continue to be available on a stand-alone basis.

The Board shall retain its authority to investigate and suspend, if necessary, all aspects of the service filing. The streamlined filing procedures herein do not affect Embarq's existing authority, under certain circumstances, to file certain service offerings on one-day notice.

### B. Rate Stability:

- 1. Increases in rates for rate regulated services (described as "noncompetititve services" in Title 48) will require Board approval.<sup>3</sup>
- This PAR shall supersede the limitations on rate increases applicable to Embarq set forth in Paragraph 1 of Attachment A to the Stipulation of Settlement in BPU Docket No. TM05080739.<sup>4</sup>

<sup>&</sup>lt;sup>3</sup> See, e.g., In the Matter of the Board Investigation Regarding the Reclassification of Incumbent Local Exchange Services (ILEC) as Competitive, Docket No. TX07110873.

In the Matter of United Telephone Company of New Jersey, Inc. d/b/a Sprint and LTD Holding Company for Approval Pursuant to N.J.S.A. 48:2-51.1 and N.J.S.A. 48:3-10 of a Change of Ownership and Control, Docket No. TM05080739, Order dated March 9, 2006.

#### C. Revenue Neutral Rate Restructures:

Embarq is not permitted to implement revenue neutral rate adjustments until authorized by further Order of the Board. Except as permitted in either Paragraph 29 or Paragraph 31 of the Stipulation and Agreement, Embarq shall not otherwise seek revenue neutral rate adjustments until commencement of the proceeding referenced in Paragraph 27 of the Stipulation and Agreement. Nothing in this PAR shall preclude Embarq from seeking revenue neutral rate restructures at any time in accordance with Paragraph 29 or Paragraph 31 of the Stipulation and Agreement. As permitted either by this PAR or by the Stipulation and Agreement, as appropriate, Embarq may propose for the Board's review and approval, revenue neutral rate restructures for Embarq's rate regulated services. Such filings may be supported by currently available and prospective data as described below. Revenue neutral rate restructures will not be limited to rate restructures within service categories and shall generally not be used to geographically deaverage rates.

Embarq will make a revenue neutral rate restructuring filing sixty (60) days before the proposed effective date, and serve both the Board and Rate Counsel. The Board review shall conclude with the decision of the Board, in writing, as soon after the filing as possible. No proposed rate adjustment under this section shall take effect without Board approval.

Modification or rejection of an Embarq-proposed revenue neutral rate restructure is not grounds for terminating this PAR or limiting Embarq's obligations under this PAR. As part of its filing, Embarq must submit the following:

- 1. A description of the service(s) affected and an explanation as to why the restructure is proposed;
- Calculations demonstrating the revenue neutral effect of the proposed restructure;
- 3. A description of the impact of the proposed restructure on all affected classes of customers, demonstrating that no class is unduly advantaged over another; and
- Notice with copies of the filing, at the time of filing, shall be provided to Rate Counsel.
- D. Exogenous Events: Consistent with the Board's orders approving alternative regulation plans, in addition to its authority under Title 48 of the New Jersey Statutes

and in addition to the revenue neutral rate restructuring provisions at III.C., above, Embarq will be permitted to increase (or required to decrease) rates for its rate regulated services if there occurs a major, unexpected extraordinary or exogenous event, beyond its control, that has a material, substantial and demonstrable impact on its financial condition. Proposed rate adjustments will be filed for the Board's approval pursuant to the requirements specified below. The allocation of the effects of an exogenous event shall be on a total company basis between interstate and intrastate jurisdictions, and rate regulated and competitive services, subject to Board approval.

Embarq will make its proposed rate adjustment filing, and will copy Rate Counsel on such filing, resulting from a significant exogenous event within 60 days of the date on which the effects of that event are known and calculated (but not more than 12 months since the occurrence of the exogenous event). Review by Rate Counsel and the Board shall conclude with the decision of the Board, in writing, as soon thereafter as possible. No proposed rate adjustment under this section shall take effect until Board approval and the Board shall retain the right to determine the appropriate rate design. Modification or rejection of an Embarq proposed exogenous event rate adjustment is not grounds for terminating the Plan, or limiting Embarq's obligations thereunder. As a part of its filing, Embarq will submit the following:

- A description of the exogenous event and an explanation as to why the event has a material, substantial, and demonstrable impact on its financial condition;
- 2. Data which describe and quantify the estimated financial impact to Embarq; and
- 3. A proposed rate design to reflect the changes.7

<sup>5</sup> An unexpected event is defined as an event beyond the company's control and includes, but is not limited to: changes in tax laws, accounting rules, and separations; regulatory, judicial, and legislative changes; and acts of God, nature or terrorism affecting Embarq.

<sup>&</sup>lt;sup>6</sup> This provision is not intended as a mechanism to permit routine requests for rate relief (or rate decreases).

<sup>&</sup>lt;sup>7</sup> Embarq may, at its discretion, forgo rate increases for certain services, where appropriate to protect low-income subscribers, for market reasons or for other reasons.

### IV. RECLASSIFICATION OF SERVICES AS COMPETITIVE

Unless otherwise ordered at BPU Docket No. TX07110873, Embarq may petition the Board to reclassify an existing rate regulated service as competitive, in which case it will support its petition with affidavits or other proofs evidencing the competitive nature of the service as required by *N.J.S.A* 48:2-21.19(b). Embarq also will follow the safeguard and notice provisions set forth in this PAR, Section V below.

### V. CONSUMER AND COMPETITIVE SAFEGUARDS

In order to provide assurances both to the Board and to Embarq's customers and competitors, Embarq will observe a series of specific safeguards required by law and described in this Section. Embarq is subject to all Federal and State statutory requirements related to local exchange competition and nothing in this PAR shall supersede those requirements. The safeguards shall apply to all Embarq competitive services and those that Embarq seeks to classify or reclassify as competitive.

- A. Tariffs for Competitive Services For services that the Board classifies as competitive, Embarq will file and maintain tariffs in conformance with the requirements of the Board's existing regulations governing competitive services, unless the Board does not require tariffs for particular services. The rates for competitive services may be either in the public filed tariffs or, if the Board determines that the rates are proprietary, on file with the Board and Rate Counsel. If rates for competitive services are not in Embarq's public tariffs, Embarq will permit interested parties to review the unpublished rates under the terms of an appropriate protective agreement, such as those currently used in cases before the Board. Changes or additions to tariffs for competitive services shall be made in accordance with the existing regulations governing competitive services.
- B. Direct Cost Allocation Data In order to demonstrate that rate regulated services will not subsidize competitive services, Embarq will provide annual reports to the Board's staff and Rate Counsel showing that, in the aggregate, the total revenues for Embarq's competitive services exceed the total direct cost of the services. To the extent Embarq's reports include information Embarq deems proprietary, Embarq may make a request for a confidentiality determination under the Board's OPRA rules set forth at N.J.A.C. 14:1-12. Embarq will work

with the BPU Staff and Rate Counsel to determine the format for annual rate regulated financial reports in a form consistent with similar reporting in other Embarq jurisdictions. Nothing in this paragraph precludes any party from seeking additional cost information in the proceeding identified in Paragraph 27 of the Stipulation and Agreement.

C. Standards for Determining and Monitoring Competitiveness of Services – This PAR incorporates the standards for determining and monitoring the competitiveness of services set forth in the Board's regulations governing competitive services.

### VI. REPORTING REQUIREMENTS

A. Service Quality – Embarq will file consistent with Board regulations service quality reports to demonstrate compliance with the service quality rules established in N.J.A.C. 14:10-1A.9, 1A.10 and 1A.11, with a copy to Rate Counsel.

B. BFRR Reports – Embarq will continue to file, with a copy sent to Rate Counsel, semi-annual reports of customers by exchange participating in Embarq's Bona Fide Retail Request ("BFRR") program. The reports shall be filed January 15<sup>th</sup> (for prior year end data) and July 15<sup>th</sup> (for January to June data).

#### EXHIBIT C

### REPORTING REQUIREMENTS

### Provide to Board and Rate Counsel:

- a. Copies of FCC Form 477 filings when filed at the FCC (filed every six months for New Jersey).
- b. Copies of semi-annual monitoring reports that Embarq files with the Board.
- Copies of annual reports filed with the Board, including revenues and associated ARMIS reports showing the number of NJ residential and business customers.
- d. Copies of the quarterly report showing the number of Lifeline and Link-up connections.
- e. Copies of tariff filings showing rate changes to competitive services.
- f. Data related to the take rate for discretionary features and NJ numbers ported to all entities upon request in the proceeding referenced in paragraph 27 of the attached Stipulation and Agreement.
- g. Depreciation cost studies